

GOLD, ALBANESE & BARLETTI
58 Maple Avenue
Red Bank, New Jersey 077701
(732) 936-9901
Attorneys for Claimant, Dorothy Coleman (#2733)

DOROTHY COLEMAN

Claimant

v.

CIRCUIT CITY STORES, INC. et al.

Debtors

IN THE UNITED STATES BANKRUPTCY
COURT FOR THE EASTERN DISTRICT
OF VIRGINIA RICHMOND DIVISION

Chapter 11
Case No. 08-35653 (KRH)
Jointly Administered

RESPONSE TO DEBTORS' THIRTY-
FIRST OMNIBUS OBJECTION TO
CLAIMS (DISALLOWANCE OF CERTAIN
LEGAL CLAIMS

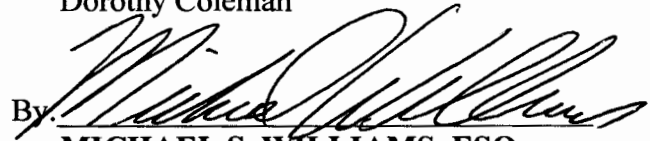
To: Clerk of the Bankruptcy Court
United States Bankruptcy Court
701 East Broad Street -Room 4000
Richmond, Virginia 23219

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GOLD, ALBANESE & BARLETTI
Attorneys for Claimant,
Dorothy Coleman

By 
MICHAEL S. WILLIAMS, ESQ.

DATED: September 8, 2009

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CERTIFICATION IN SUPPORT OF
RESPONSE TO DEBTORS' THIRTY-
FIRST OMNIBUS OBJECTION TO CLAIMS
(DISALLOWANCE OF CERTAIN LEGAL
CLAIMS)

I, **MICHAEL S. WILLIAMS**, hereby certifies as follows:

1. I am an attorney at law of the State of New Jersey and an associate with the Law Offices of Gold, Albanese & Barletti. I am responsible for the handling of the within matter and therefore am familiar with the facts surrounding the above-captioned matter as well as the within application.

1. Claimant, Dorothy Coleman, resides at 201 Pleasant Church Road, in the Town of Mount Sherman and State of Kentucky.

2. Circuit City Stores, Inc. owns and/or operated the Circuit City, which is located at 90 Route 36, in the Borough of Eatontown, County of Monmouth, and State of New Jersey.

3. On August 7, 2008, Claimant, Dorothy Coleman, was a patron at the Circuit City for the purposes of purchasing certain electronic items.

4. On August 7, 2008, plaintiff was caused to trip and fall on the premises at the Circuit City located at 90 Route 36, in the Borough of Eatontown, County of Monmouth, and State of New Jersey. Please see a copy of the police report attached hereto as: **Exhibit A.**

5. Debtor, Circuit City Stores, Inc. failed to maintain the store with due care and thereby caused the aisles to become obstructed rendering the said area dangerous and unsafe for use.

this dangerous and unsafe condition.

7. Debtor, Circuit City Stores, Inc., carelessly and negligently failed to properly inspect and maintain the aisles in a safe condition for use.

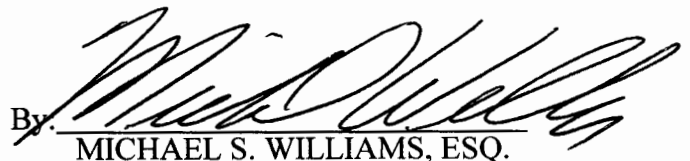
8. Debtor, Circuit City Stores, Inc., knew, or could by the exercise of ordinary and reasonable care have known, of the unsafe and dangerous conditions then and there existed in the said area.

9. As a direct and proximate result of the Debtor, Circuit City Stores, Inc.'s, negligence, carelessness, and recklessness, and improper conduct in maintaining the said premises, the Claimant, Dorothy Coleman, while on the said premises as aforesaid on the aforementioned date, was caused to trip and fall to the ground and suffered painful and permanent injuries in and about her body, was seriously injured, sustained great pain and suffering and mental anguish, does presently sustain the same and in the future will sustain the same, was obliged to expend large sums of money to affect a cure for the injuries, pain and suffering and mental anguish, which she sustained, and is presently obligated to expend large sums of money and in the future will be obligated to expend large sums of money so as to affect a cure for the injuries which she sustained. Please see a copy of Dr. Markbreiter's Narrative report attached hereto as:
Exhibit B.

10. The foregoing is an explanation for the amount claimed of \$300,000.00. Furthermore, based on the foregoing it is respectfully requested that the Debtors' relief requested in the Objection be denied.

11. The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

GOLD, ALBANESE & BARLETTI
Attorneys for Claimant,
Dorothy Coleman

By: 
MICHAEL S. WILLIAMS, ESQ.

DATED: September 8, 2009

GOLD, ALBANESE & BARLETTI
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DOROTHY COLEMAN

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Chapter 11
Case No. 08-35653 (KRH)
Jointly Administered

CERTIFICATION OF EXHIBITS

I, **MICHAEL S. WILLIAMS, ESQ.**, of full age, certify and state as follows:

1. I am an attorney at law of the State of New Jersey and an associate with the Law Offices of Gold, Albanese & Barletti with offices at 48 South Street, in the Township of Morristown, County of Morris and State of New Jersey and with offices located at 58 Maple Avenue, in the Borough of Red Bank, County of Monmouth and State of New Jersey.

2. The Law Offices of Gold, Albanese & Barletti were retained by Claimant, Dorothy Coleman, to represent their interest in connection with the above-captioned matter. I am one of the attorneys responsible for the handling of this matter on behalf of the Law Offices of Gold, Albanese & Barletti and on behalf of the Claimant. Therefore, I am fully familiar with the facts and circumstances surrounding this matter, together with the pleadings filed and discovery conducted to date.

3. I make this certification in support of Claimant's Response to Debtors' Thirty- First Omnibus Objection to Claims.

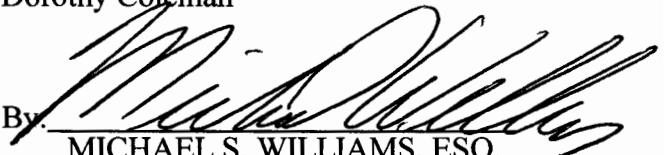
4. **Exhibit A** is a true and complete copy of police report.

5. **Exhibit B** is a true and complete copy of Dr. Lance A. Markbeiter's Narrative Report.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false that I am subject to punishment.

GOLD, ALBANESE & BARLETTI
Attorneys for Claimant,
Dorothy Coleman

By.



MICHAEL S. WILLIAMS, ESQ.

DATED: September 8, 2009

CERTIFICATION OF MAILING

I hereby certify that the within Response to Debtors' Thirty-First Omnibus Objection, has been sent via regular and certified mail **7008 0500 0001 6501 9127** to the Clerk of the Bankruptcy Court United States Bankruptcy Court a copy has been served on the following via regular mail and certified mail:

7008 0500 0001 6501 8526

SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP
One Rodney Square
PO Box 636
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Attn: Ian S. Fredericks

7008 0500 0001 6501 9103

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7008 0500 0001 6501 9110

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155 North Wacker Drive
Chicago, Illinois 60606
Attn: Chris L. Dickerson

GOLD, ALBANESE & BARLETTI

Attorneys for Claimant,
Dorothy Coleman

BY:


MICHAEL S. WILLIAMS, ESQ.

Dated: September 8, 2009

EXHIBIT A

Borough of Eatontown Police Department
 47 BROAD STREET
 EATONTOWN, NEW JERSEY 07724
 (732) 542-0100

SPECIAL REPORT ☐

OPERATIONS REPORT ☒

Nature of Incident FIRST AID		Date 08/07/2008	Time 19:15	UCR Code See	Case Number 2008-12794	
Victim / Tradename / Business DOROTHY COLEMAN		DOB [REDACTED]	Age 87	Sex F	Race W	Phone Number [REDACTED]
Full Address (Number - Street - Municipality - State - Zip) 201 PLEASANT CHURCH ROAD, MOUNT SHERMAN, KY 42764						
Location of Event CIRCUIT CITY, 90 ROUTE 36, EATONTOWN, NJ 07724						
Reported By: MONMOUTH COUNTY RADIO ROOM					Phone Number 732-577-8700	
Full Address (Number - Street - Municipality - State - Zip)						
Accused		DOB	Age	Sex	Race	Phone Number
Full Address (Number - Street - Municipality - State - Zip)						

Code	Name	Address	SS No.	Age	Sex	Race	DOB

Action Taken:

ON 08/07/2008, I WAS DISPATCHED TO CIRCUIT CITY FOR THE REPORT OF A FALL VICTIM. UPON ARRIVAL I SPOKE TO THE VICTIM, MS. DOROTHY COLEMAN, WHO STATED SHE TRIPPED AND FELL TO THE GROUND INJURING HER RIGHT SHOULDER. EATONTOWN FIRST AID RESPONDED AND TRANSPORTED MS. COLEMAN TO MONMOUTH MEDICAL CENTER. NFA

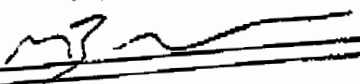

Signature 	PTL M. BAILEY	Badge Number 560	Date 08/07/2008	Reviewed By 	Pending	Completed YES

EXHIBIT B



35 Gilbert Street South • Tinton Falls, New Jersey 07701 • (732) 530-1515 • Fax (732) 747-5433
1255 Route 70 • Lakewood, New Jersey 08701 • (732) 942-2300 • Fax (732) 942-2311
1322 Route 72 • Manahawkin, New Jersey 08050 (609) 597-1377 • Fax (609) 597-0204
Interventional Pain Medicine • 1255 Route 70 • Lakewood, 08701 • New Jersey (732) 942-2020 • Fax (732) 942-2021

ROBERT B. GROSSMAN, M.D., F.A.C.S.*
CARY D. GLASTEIN, M.D., F.A.C.S.*
LANCE A. MARKBREITER, M.D., F.A.C.S.*
CHARLES C. RIZZO, M.D., F.A.C.S.*
DAVID L. CHALNICK, M.D. F.A.C.S.*
SCOTT C. WOSKA, M.D. FAAPMR, FAAEM, DABPM

Orthopaedic Surgery
Sports Medicine
Scoliosis
Spinal Reconstruction
Surgery
Total Joint Replacement
and Revision
Foot and Ankle Surgery
Laser Surgery
Shoulder & Elbow
Surgery
Interventional Pain
Medicine
Electrodiagnostic Testing

November 28, 2008

Anthony Locascio, Esq.
Gold, Albanese & Barletti
58 Maple Avenue
Red Bank, NJ 07701

RE: COLEMAN, DOROTHY-94900 TF
D/A: 8/7/08

Dear Mr. Locascio:

I had the opportunity to evaluate Dorothy Coleman as it relates to injuries she sustained during a trip and fall, which occurred on August 7, 2008. I performed an orthopaedic history and physical examination, as well as review of medical records supplied to me. These medical records include emergency room records from Monmouth Medical Center, Heartland Primary Care, Elizabethtown Diagnostic Imaging (MRI right shoulder), and Dr. Marcus Craig, and Dr. H. John Park of Elizabethtown Orthopaedic Associates.

HISTORY

The patient notes that she tripped over a low shelf in Circuit City sustaining an injury to her right shoulder. She was brought to the emergency room at Monmouth Medical Center where examination demonstrated tenderness of her shoulder with motion limited by pain, crepitus and deformity. An x-ray of the shoulder was performed, which demonstrated a fracture of the proximal humerus, and avulsion of the greater tuberosity with displacement. She was placed in a sling and swath and referred for orthopaedic followup.

Ms. Coleman followed up in her hometown, Elizabethtown, Kentucky, with her medical on August 12, 2008. These records document the shoulder fracture. She was treating this with narcotic pain medication, including Vicodin. She was referred to Elizabethtown Orthopaedic Associates who evaluated her two days later, on August 14, 2008. Dr. Craig documents that she had a 3-part fracture of her shoulder. X-rays taken in the office demonstrated displacement of the greater tuberosity of the proximal humerus. She was seen in followup on August 26 and September 9, 2008. On the later date physical therapy was initiated.

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November 28, 2008

Re: COLEMAN, DOROTHY

MRI SCAN

On September 22, 2008 an MRI of the right shoulder was performed. This demonstrated the transverse fracture of the neck of the humerus, as well as the avulsion fracture of the greater tuberosity, which is displaced posteriorly. There is also a tear of the infraspinatus portion of the rotator cuff. Partial tearing of the supraspinatus portion of the rotator cuff is present. Review of the MRI demonstrates that the fracture at the neck of the humerus is mildly displaced and the greater tuberosity fragment is significantly displaced posteriorly from its normal location.

CURRENT COMPLAINTS

Ms. Dorothy Coleman notes that a great deal of pain and discomfort has improved. However, she has significant limitations. She is unable to lift her arm above shoulder level. She is unable to reach her side, and she is unable to rotate her shoulder. She notes this interferes in "all the little things in life". She gives examples. She was unable to hang her coat up on the hook in our office. She is unable to reach to the top of her head to wash or comb her hair. She is unable to lift heavy objects. She is unable to take anything off the top shelf with this arm. She basically notes loss of all motion above shoulder level and significant weakness.

PHYSICAL EXAMINATION

Physical examination is performed focused on the right shoulder. She has severe loss of all glenohumeral shoulder motion. Examination of the contralateral shoulder demonstrates normal full range of motion. Examination of her right shoulder demonstrates 0° of external rotation, 20° of forward elevation and 10° of abduction at the glenohumeral joint. With shoulder abduction utilizing scapular rotation there is significant weakness of her rotator cuff.

These findings are consistent with a torn rotator cuff as well as a displaced greater tuberosity fracture, which is limiting external rotation and abduction.

SUMMARY

Dorothy Coleman sustained a slip and fall over a low shelf in Circuit City on August 7, 2008. As a result of this fall she sustained the following injuries:

1. Three-part shoulder fracture with displacement of the humeral neck, and significant posterior displacement of the greater tuberosity portion of the shoulder.
2. Rotator cuff tear involving full tear of the infraspinatus and partial tear of the supraspinatus.

-3-

November 28, 2008

Re: COLEMAN, DOROTHY

With a reasonable degree of medical probability the above diagnoses are directly related to this fall.

Radiographs were taken in my office of the shoulder. These demonstrate that the fractures are indeed healing, however they are healing in a malunion position. The greater tuberosity is healing in the displaced position, as well as the humeral neck. This is consistent with the patient's decrease in pain and also consistent with her loss of motion.

Therefore, the following diagnosis is also directly related to the slip and fall:


1. Malunion proximal humerus shoulder fracture including humeral neck fracture and displaced greater tuberosity fracture.

With a reasonable degree of medical probability the above injuries represent permanent injuries, which will never return to their pre accident status. The patient's bones are healing, however in a displaced position, which will severely limit both strength and range of motion in the future. In addition the rotator cuff tear causes significant weakness.

This patient is an extremely pleasant patient who has severe limitations of the shoulder, which are, with a reasonable degree of medical probability permanent in nature. This includes the significant weakness, as well as severe loss of range of motion. She will require extensive physical therapy, however with a reasonable degree of medical probability she will never return to her pre accident status, nor will she regain any significant further degree of motion, particularly abduction and external rotation secondary to the displaced greater tuberosity. With a reasonable degree of medical probability this will cause progressive arthrosis in her shoulder as well as progressive tearing of her rotator cuff, leading to further weakness and eventual progressive pain and discomfort.

All statements are made with a reasonable degree of medical probability.

Very truly yours,



Lance A. Markbreiter, M.D.

LAM/sd

Dictated but not read to avoid delay

ROBERT FRANCIS GOLD*◇
JUDY T. ALBANESE*◇
JAMES N. BARLETTI*

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CHRISTIAN BRUUN*
SANDRA CLARK*
STEFANI M. FIELD◇

OF COUNSEL:

LOUIS F. LOCASCIO, J.S.C. Ret.*▲■
MICHAEL J. AVILES ◇
SHANE C. DELEON*
BENJAMIN SHATZKY ◇

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Main E-Mail Address: main@goldandalbanese.com

REPLY TO RED BANK

* MEMBER OF NJ BAR
◇ MEMBER MA BAR
◇ MEMBER OF NY BAR
▲ CERTIFIED BY THE SUPREME COURT OF NEW JERSEY AS A CIVIL TRIAL ATTORNEY
■ CERTIFIED BY THE SUPREME COURT OF NEW JERSEY AS A CRIMINAL TRIAL ATTORNEY

via regular & cert. mail 7008 0500 0001 6501 9127

September 8, 2009

Clerk of the Bankruptcy Court
United States Bankruptcy Court
701 East Broad Street, Room 4000
Richmond, VA 23219

**RE: Circuit City Stores, Inc., et al.
Case No. 08-35653-KRH
United States Bankruptcy Court
Eastern District of Virginia, Richmond Division**

Dear Sir or Madam:

Please be advised that the Law Firm of Gold, Albanese & Barletti Represent Creditor Dorothy Coleman in regard to the above captioned matter. On August 7, 2008, Ms. Coleman was shopping in a Circuit City located at 90 Route 35, Eatontown, NJ 07724 when she tripped and fell sustaining life altering injuries.

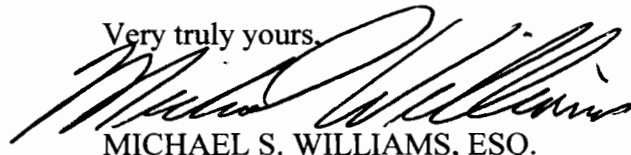
Enclosed herein please find Creditor's Response to Debtors' Thirty-First Omnibus Objection to Claims and attached relevant documents pertaining to the incident and Ms. Coleman's injuries.

Kindly file same and provide a copy to the law offices of Gold, Albanese & Barletti in the business envelope provided. Kindly forward same to the Judge that will be hearing same.

Please also advise if there are any scheduled arbitration proceedings in regarding to personal injury tort claims.

Thank you for your time and attention to this matter.

Very truly yours,



MICHAEL S. WILLIAMS, ESQ.

msw (encls)

cc: Skadden, Arps, Slate, Meagher & Flom, LLP (via reg & cert.)
McGuirewoods, LLP, (via reg. & cert.) Dorothy Coleman